THE NATURE OF THE AKHBĀRĪ/UṢŪLĪ DISPUTE IN LATE ṢAFAWID IRAN. PART 1: 'ABDALLĀH AL-SAMĀHIJĪ'S '*MUNYAT AL-MUMĀRISĪN*'[1]

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The Akhbārī/Uṣūlī controversy within Twelver Shī'ism has been portrayed in Western-language scholarship primarily as a scholastic dispute over jurisprudential methodology which came to fruition only in eleventh/seventeenth-century Ṣafawid Iran. Uṣūlism is generally characterized as having stressed recourse to rationalist, subjective forms of analysis—particularly the principle of *ijtihād* (independent judicial reasoning)—on legal questions where the revealed sources were deemed wanting. Akhbārism has been portrayed mainly in negative terms, as having forbad recourse to speculative reasoning in favour of reliance solely on the Twelver-accepted revelation— the Qur'ān and the *sunna*, the latter especially including the *akhbār* (sg. *khabar*), the Arabic-language body of statements of and narratives about the twelve Shī'ī Imāms, the last of whom disappeared in 260 A.H./A.D. 873–874.

The tendency to view the debate as entirely scholastic and as arising only in the second Ṣafawid century most likely results from the identification of Akhbārism with the personality of Muḥammad Amīn al-Astarābādī (d. 1030/1640) and the characterization of his *al-Fawā'id al-Madaniyya* as the earliest coherent statement of the Akhbārī critique, if not also its embodiment and epitome, and from reference to the '*Munyat al-Mumārisīn*', written by the late-Ṣafawid Akhbārī scholar 'Abdallāh b. al-Ṣāliḥ al-Samāhijī (d. 1135/1723), on the points of disagreement between Uṣūlīs and Akhbārīs, as an effective summary of the conflict between the two.

The present two-part essay is intended to initiate a re-examination of the conventional understanding of the Akhbārī/Uṣūlī dispute based on a re-examination of al-Samāhijī's essay and contemporaneous clerical biographies. Because scholars have in fact relied on a later abridgement of al-Samāhijī's treatise, the first part of the present essay comprises an introduction to and the presentation of an edited, annotated version of the Arabic text and English translation of the relevant section of al-Samāhijī's essay. Part 2 of this paper—to appear in the next issue of *BSOAS*—will first suggest that the notion of the primacy of al-Astarābādī's role in Ṣafawid Akhbārism was not shared by contemporaneous Twelver clerical biographers. Comparative examination of al-Samāhijī's original treatise and the later abridgement then shows that the latter omitted much detail and a number of the points made in the original. Some of the excised material further undermines the presumed centrality of al-Astarābādī's position in delineating and defining the Akhbārī challenge, reveals clear evidence of splits within each of the two fractions, and demonstrates the intrinsically practical implications of the Akhbārī/Uṣūlī confrontation.

Al-Samāhijī's 'Munyat al-Mumārisīn'

Examination of the Akhbārī/Uṣūlī dispute as originally represented by 'Abdallāh al-Samāhijī seems a useful early step in the process of re-evaluating the nature of the conflict between the two fractions in the late-Ṣafawid period.

[1] The author would like to thank Drs. Norman Calder and Etan Kohlberg for their comments and criticisms on drafts of the entire text of this paper. See also the acknowledgements in n. 5 of the present section. The errors herein are the responsibility of the author alone.

Al-Samāhijī was born in al-Baḥrayn—the area of the eastern Arabian mainland including al-Qaṭīf and al-Aḥsā. His father al-Ṣāliḥ was a strict Uṣūlī cleric, known for his anti-Akhbārī proclivities. Yūsuf al-Baḥrānī (d. 1186/1772) characterized al-Ṣāliḥ's son 'Abdallāh, however, as a ' pure (*ṣarf*) Akhbārī ' and a ' great reviler of the *mujtahids* '.[2] According to al-Baḥrānī, al-Samāhijī served briefly as Shaykh al-Islām in Isfahān during the Afghan attacks on Iran, in the last years of the reign of Shāh Sulṭān Ḥusayn (1105–1135/1694–1722). He fled the Ṣafawid capital at its fall, and settled in Bihbihān where he died in 1135/1722, when that city fell to the invaders.

Al-Samāhijī wrote a number of treatises, at least one important *akhbār* work, and, in 1125/1712–1713—several years after fall of Isfahān and nearly a century after the death of Amīn al-Astarābādī—the Arabic-language ' *Munyat al-Mumārisīn* ', in reply to some ninety questions addressed to him by Shaykh Yāsīn b. Ṣalāḥ al-Dīn. In the seventh section of this essay, al-Samāhijī listed forty outstanding points of dispute between the Akhbārīs and the Uṣūlīs.[3] Al-Samāhijī's list of these issues was abridged as twenty-nine points by the fourteenth/nineteenth-century biographer Muḥammad Bāqir al-Khwānsārī al-Isbahānī (d. 1313/1895) in his Arabic-language *Rauḍāt al-Jannāt*. It is this abridgement by al-Khwānsārī which has so frequently been cited by Western-language scholars in their discussions of the nature of the Akhbārī/Uṣūlī dispute.[4]

An edited, annotated version of al-Samāhijī's full and complete reply to Shaykh Yāsīn on the differences between the two groups is presented below, first in the original Arabic and then in English translation. The edition and translation of the essay is based on two copies of the text, Tehran, Majles Library, MS 1916/27—a shortened version of the full forty points—and Qum, Mar'ashī Library, MS 1018—a full and complete version of the entire *Munya*. The Qum copy was made in 1126/1713, one year after the original's composition, was later in the possession of al-Samāhijī himself, and bears his corrections.[5]

[2] Al-Samāhijī's Akhbārism no doubt derived, at least in part, from his study with Sulaymān b. 'Abdallāh al-Baḥrānī al-Māḥūzī (d. 1121/1709), the head of the Twelver community in al-Baḥrayn, whom al-Baḥrānī described as having Akhbārī tendencies. See Yūsuf al-Baḥrānī, *Lu'lu'at al-Baḥrayn* (Najaf, 1969), 98, 7–12 esp. 10; Aghā Buzurg Muḥammad Muḥsin al-Tehrānī, *al-Dharī'a ilā Taṣānīf al-Shī'a* (Tehran and Najaf, 1353–98), 15: 265–6; Muḥammad Bāqir al-Khwānsārī al-Isbahānī, *Rauḍāt al-Jannāt*, M. T. al-Kashfī and A. Ismā'īliyān (ed.) (Tehran-Qum, 1390–92), 4: 16–21; Muḥsin al-Amīn, *A'yān al-Shī'a* (Beirut, 1960 f.), 35: 105–112; 'Alī b. al-Ḥasan al-Baḥrānī, *Anwār al-Badrayn* (Najaf, 1377/1957–58), 150–58. See also al-Samāhijī's references to his teacher in the essay reproduced below, especially numbers 5, 11 and 39. On the depth of the commitment of both al-Samāhijī and his teacher al-Māḥūzī to Akhbārism, see further the discussion in part two of the present essay, especially nn. 4, 34, and 35. On al-Baḥrānī, see also section two of the present essay, especially nn. 4–7.

[3] Al-Baḥrānī, *Lu'lu'at*, 98–100; al-Khwānsārī, op. cit., 4: 247–9; 'Alī al-Baḥrānī, op. cit., 175; Muḥammad 'Alī b. Muḥammad Ṭāhir Mudarris, *Rayhānat al-Adab* (Tehran, 1328–33), 2: 223–4; al-Tehrānī, ibid, 23: 210–11, 20: 372. For al-Samāhijī's essays see also Ḥ. M. Ṭabāṭabā'ī, *An introduction to Shī'ī law: a bibliographical study* (London: Ithaca Press, 1984), 97, 108–9, 149. Shaykh Yāsīn was a student of al-Samāhijī and a religious official in al-Baḥrayn. He fled to Shīrāz after the destruction of al-Baḥrayn. See Yūsuf al-Baḥrānī, ibid., p. 100, n. 38; 'Alī al-Baḥrānī, op. cit., 221.

[4] For the text of the abridgment, see al-Khwānsārī, 1: 127–30. References to the abridgement in the secondary sources include Gianroberto Scarcia, ' Intorno alle controversie tra 'Ahbari e 'Usuli presso gli Imamiti di Persia ', *Revista degli Studi Orientali*, 33, 1958, 225; Abdoljavad Falaturi, ' Die Zwölfer-Schia aus der Sicht eines Schiiten: Probleme inhrer Untersuchung ', *Festschrift Werner Caskel*, E. Gräf (ed.) (Leiden: Brill, 1969), p. 81, n. 3; Etan Kohlberg, ' Akbārīya ', *Encyclopedia Iranica*, I (Leiden: Brill, 1985), 718, Wilferd Madelung, ' Akhbāriyya ', *EI* (2nd ed.), sup. (Leiden: Brill 1980), 57; Ṭabāṭabā'ī, op. cit., p. 54, n. 2; Moojan Momen, *An introduction to Shi'i Islam* (New Haven: Yale University Press, 1985), p. 222, n. 1. See also nn. 1–3 in part 2 of the present essay.

[5] Descriptions of these two manuscript copies can be found in A. Ḥā'erī, *et. al.*, *Fehrest-e Ketābkhāna-ye Majles-e Shurā-ye Mellī*, 9(2) (Tehran, 1347), 587–8; A. Ḥusaynī, *Fehrest-e Nuskhahā-ye Khaṭṭi-ye Ketābkhāna-ye 'Umūmī-ye Haẓrat Ayātallāh al-Uẓmā Najafī Mar'ashī*, 3

Because of al-Samāhijī's direct association with the latter manuscript the present editor/translator assumes that the Qum manuscript is the closer of the two copies to the original text of *'Munyat al-Mumārisīn'*. Footnotes to the Arabic text note the differences between the Qum (referred to as *qāf*) and Majles (designed as *mīm*) copies of the text. Perhaps the most important difference between these two manuscripts occurs in those points numbered 20 to 22. The Majles manuscript's number 20 corresponds to Qum's number 21, while Majles's number 22 corresponds to Qum's 22. The Majles manuscript actually omits a point numbered 21, corresponding to number 20 in the Qum manuscript. Because the Qum copy is presumed closer to the original, in both the Arabic text and English translation the present editor has followed the numbering and text of the Qum manuscript.

Arabic manuscripts feature *over*lining rather than *under*lining. In the Arabic text below thin overlining indicates additions made within the body of the Qum text itself, most likely by the copyist. Text with a broken line over indicates text in the body of the Qum copy crossed out, again probably by the copyist. Thick overlining indicates additions made in the margins of the Qum manuscript, presumably by al-Samāhijī himself. A double broken line, used only in number 12, indicates text added above the line in *mīm*, presumably by the copyist. Paragraphs and punctuation markings have been added by the present editor/translator to the Arabic original—and English translation—where changes in style or substance suggest. In the English translation, in square brackets after the number of the point in the original is the number of the point(s) in al-Khwānsārī's abridgement to which it most closely corresponds.

Arabic text

المسئلة السابعة

قال [١]دام شرفه[١] ما الفرق بين مجتهدنا والاخباري.

[٢]**اقول** الفرق بينهما ظاهر عند الانصاف وتجنُّب طريق العصبية والاعتساف من وجوه متعدِّدة وامور متبددة لا ينازع فيها من خلع عنه ربقة التقليد ولا يرتاب فيها من كان له قلب أو القى السمع وهو شهيد.

الاول[٢] أن المجتهدين يوجبون الاجتهاد عيناً أو تخييراً

والاخباريين يحرمونه ويوجبون الاخذ بالرواية [٣]إما[٣] عن المعصوم أو من روى عنه وإن تعددت الوسايط [٤]ولهم على ذلك أدلة قطعية من الكتاب والسنة لا يسعها هذا المختصر جمعناها في رسالة نسال الله إتمامها وتهذيبها وختامها.[٤]

الثاني أن المجتهدين يقولون [٥]إن[٥] الأدلة عندنا اربعة الكتاب والسنة والإجماع ودليل العقل

(Qum, 1975), 214–15. The present writer would like to thank Dr. Ḥ. M. Ṭabāṭabā'ī, Professor W. Madelung, and Drs. Norman Calder and Etan Kohlberg for their comments on the Arabic text and English translation of this text, and John Cooper for his encouragement and assistance with the typesetting of the Arabic text. 'Abd al-Ḥoseyn Ḥā'erī and Drs. Ṭabāṭabā'ī and Yann Richard are to be thanked for their assistance in facilitating access to these two manuscripts. The Arabic text itself is typeset at the Oxford University Computing Service.

والاخباريين لا يقولون إلا بالكتاب والسنة بل بعضهم يقتصر على السنة وحدها لأن الكتاب غير معروف لهم لأنه لا يجوز تفسيره إلا من قبلهم عليهم السلام [٦]لا يقال إن الإجماع ودليل العقل داخلان في الكتاب والسنة لأنا نقول لو كان الامر كما ذكرتم لكان التقسيم إلى الاربعة لا معنى له ولا يقال إنهما مؤيدان لا دليلان مستقلان لأنا نقول لو كان كما ذكرتم لكان التقسيم غير مستقيم لخروج القسيم عن كونه قسيماً.[٦]

الثالث أن المجتهدين [٧]يجوزون اخذ الأحكام الشرعية بالظن[٧]

والاخباريين يمنعونه ولا يقولون إلا بالعلم والعلم عندهم قطعي وهو ما وافق نفس الامر وعادي واصلي وهو ما وصل عن المعصوم ثابتاً ولم [٨]يجوزوا[٨] فيه الخطأ عادةً وإن الشارع واهل اللغة والعرف يسمونه علماً وإن الظن ما كان بالاجتهاد والاستنباط بدون رواية وإن الاخذ بالرواية لا يسمى ظناً [٩]ولهم على المنع من العمل بالظن أدلة من الكتاب والسنة منها قوله إن بعض الظن اثم وإن الظن لا يغنى من الحق شيئاً قتل الخراصون ولا تقف ما ليس لك به علم ولا تقولوا على الله ما لا تعلمون وقول الأئمه عليهم السلام ما علمتم فقولوا وما لم تعلموا [٩١]فلا[٩١] وغير ذلك من الأدلة الواضحة والبراهين اللائحة

وتخصيص ذلك بالأصول مع عمومه وإطلاقه تحكُّم والاعتراض بأن العامل بالاخبار لا يخرج عن العمل بالظن ممنوع لأنه لا يسمى ظناً لغةً ولا عرفاً ولا شرعاً وتجويز احتمال النقيض فيه لا يخرجه عن ذلك لأن العلم الشرعي إنما هو ما لا يجوز احتمال النقيض فيه عرفاً وعادةً لا مطلقاً لورود الاذن بالاخذ من الرواة مع النهي عن الظن والتناقض في كلامهم غير جائز وبالجملة فلهم على ذلك أدلة كثيرة لا يسعها المقام.[٩]

الرابع أن المجتهدين ينوعون الاحاديث إلى اربعة [١٠]انواع[١٠] صحيح وحسن وموثق وضعيف

والاخباريين [١١]إنما[١١] ينوعونه إلى صحيح وضعيف [١٢]والتحقيق أن غير الصحيح من الحسن والموثق إن جاز العمل به فهو صحيح وإلا فهو ضعيف فالاصطلاح مربع لفظاً ومثنى معنى.[١٢]

الخامس أن المجتهدين يفسرون الصحيح بما رواه الإمامي العدل الثقة عن مثله إلى المعصوم والحسن ما كان رواته أو احدهم [١٣]إمامي ممدوح[١٣] غير منصوص عليه بالتوثيق والموثق ما كان رواته أو احدهم موثق غير إمامي والضعيف ما عداه

والاخباريين يفسرون الصحيح بما صح عن المعصوم وثبت ومراتب الصحة والثبوت تختلف فتارةً بالتواتر وتارةً [١٤]باخبار الاحاد[١٤] المحفوفة بالقراين التي تشهد بصحة الخبر كمطابقة القرآن أو الإجماع أو [١٥]أو[١٥] اعتضاده باحاديث اخرى [١٦]أو[١٦] غير ذلك من القراين التي توجب العلم كما فصّله الشيخ وغيره أو كان الحديث من الأصول الصحيحة المعتبرة عند الطائفة والضعيف ما عدا ذلك [١٧]قال شيخنا علامة الزمان وربما قيل إن العدول عن الاصطلاح الاول إنما وقع من العلامة رحمه الله ثم تبعه المتاخرون ولم يعرف قبله.[١٧]

السادس أن المجتهدين يحصرون الرعية في صنفين مجتهد ومقلد

والاخباريين يقولون [١٨]إن[١٨] الرعية كلها مقلدة للمعصوم ولا مجتهد اصلاً.

السابع أن المجتهدين يقولون إن طلب العلم في زمن الغيبة بطريق الاجتهاد وفي زمن الحضور بالاخذ من المعصوم ولو بالوسايط ولا يجوز [١٩]الاجتهاد حينئذ وهو طريق الاخباريين[١٩]

والاخباريين لا يفرقون[٢٠] [٢٠١]بين[٢٠١] زمن الغيبة والحضور[٢٠] بل حلال محمد حلال إلى يوم [٢١]القيامة[٢١] وحرامه حرام إلى يوم [٢١١]القيامة[٢١١] [٢٢]لا يكون غيره ولا يجيء غيره كما في الحديث.[٢٢]

الثامن أن المجتهدين لا يجوزون لاحد الفتيا وتولي القضاء والامور الحسبية إلا للمجتهد خاصة ولا يجوزون متابعة غير المجتهد

والاخباريين يمنعون ذلك ويقولون بل [٢٣]هو[٢٣] الراوي لاحاديث اهل البيت [٢٤]عليهم السلام[٢٤] المطلع على أحكامهم ولا يجوزون متابعة المجتهد في قول أو عمل لم يرو به اثر من اهل العصمة [٢٥]لقول الصادق عليه السلام انظروا إلى رجل منكم روى حديثنا وقول مولانا المهدي عليه السلام وأما الحوادث الواقعة فارجعوا فيها إلى رواة حديثنا فإنهم حجتي عليكم وانا حجة الله [٢٥١]عليهم[٢٥١] وقولهم اعرفوا منازل الرجال على قدر روايتهم عنا وحمل ذلك على المجتهد الذي يقول تارةً بالرواية وتارةً يقول بالاستنباط خلاف الانصاف.[٢٥]

التاسع أن المجتهدين يقسمون العالم الان وهو الذي يجب الرجوع إليه إلى قسمين مجتهد مطلق ومجتهد [٢٦]متجزىء[٢٦]

والاخباريين يقولون بل هو واحد وهو المتجزىء وهو العالم ببعض الأحكام بطريق الرواية دون بعض وهو الذي لم يطلع فيه على رواية توجب العلم وإنه لا عالم مطلقاً بجميع الأحكام غير المعصوم أصلاً [٢٧]لكنه مقول بالتشكيك فيقوى

ويضعف لأنا المجتهد نمنع حصول المجتهد الذي له قوة على استخراج الفروع من الأصول مع استكمال الادوات وقوة الاستعداد في جميع الأحكام بحيث لا يتوقف في مسئلة ولا يتردد في حكم فإنه لم يبلغ احد من علمائنا في قوة الاستنباط ما بلغ العلامة ره وكتبه مشحونة بالتوقف والاستشكال لا يقال إنه لو صرف وقته وبذل جهده لحصّل لأنا نقول لو كان له قدرة لفعل ولم يبلغ احد من علماء العامة ما بلغ الفقهاء الاربعة بل ربما حصر الاجتهاد المطلق فيهم وقد صح عن مالك أنه سئل عن اربعين مسئلة فقال في ست وثلثين مسئلة منها لا ادري.[٢٧]

العاشر أن المجتهدين يقولون إنه لا يبلغ احد رتبة الفتوى ومعرفة الحديث إلا من عرف المقدمات الست وهى الكلام والأصول والنحو والتصريف ولغة العرب والمنطق والأصول الاربعة وهى الكتاب والسنة والإجماع ودليل العقل وذكر بعضهم إنه لا يكون ذلك إلا لمن عرف نحواً من خمسة عشر علماً

والاخباريين لا يشترطون غير معرفة كلام العرب ومنه بعض مسائل النحو والتصريف بل ربما منع بعضهم من اشتراط النحو والتصريف [٢٨]مطلقاً وللمسئلة موضع اخر ومعرفة[٢٨] اصطلاحات اهل البيت [٢٩]عليهم السلام[٢٩] ومعرفة محاوراتهم وما عدا ذلك ليس بشرط سوى المتوقف فهم كلام العرب عليه.

الحادي عشر أن المجتهدين يرجحون الاخبار اذا اختلفت بالآراء والافكار

والاخباريين لا يجوزون ذلك إلا بالمرجحات المنصوصة [٣٠]عندهم[٣٠] [٣١]كمقبولة عمر بن حنظلة ونحوها إلا فيما تدعو الضرورة إلى ذلك كما اذا جاء حديث مخالف للاحاديث الصحيحة الثابتة ولا يمكن تطبيقه عليها بالمرجحات المنصوصة وامكن بضرب من التاويل فإنه لا يجوز حينئذ رده ولا العمل به مع صحة معارضه وثبوت العمل به للنهي الوارد في الاخبار عن التمسك [٣١ا]به[٣١ا].

قال شيخنا علامة الزمان قدس سره في بعض جواباته في الفروق بين المجتهد والاخباري ومنها أن الاخباريين عند تعارض الاخبار لا يرجحون إلا بالقواعد الممهدة من لدن اهل الذكر سلام الله عليهم التي ذكرها ثقة الاسلام في ديباجة الكافي ومع فقدها ففي بعض الاخبار يتوقف كما قال عليه السلام [٣١ب]ارجئه[٣١ب] حتى تلقى امامك وفي بعضها التخيير والعمل بأيها شآء من باب التسليم كما قال بأيهما اخذت من باب التسليم وسعك وجمع بينهما بعضهم بأن حمل الاول على حقوق الادميين كالميراث ونحوه مما لا مجال للتخيير فيه والثاني على ما عداه وظاهر ثقة الاسلام في الكافي التخيير مطلقاً لكن مع رد ذلك إلى العالم عليه

السلام قال رحمه الله ولا نجد شيئاً أحوط ولا أوسع من رد علم ذلك كله إلى العالم وقبول ما وسع من الامر فيه بقوله بأيها اخذتم من باب التسليم وسعكم انتهى وأما المجتهدون فتاويلاتهم اجتهادية لا تنحصر بحد ولا عد واكثرها في غاية البعد ولعل سلوك طريق الاخباريين في الترجيح اسلم.

انتهى كلام شيخنا ت[٣١]أعلى ت[٣١] الله شانه ورجح ميزانه وفيه كما ترى انصاف للاخباريين واعتراف بمرجوحية قاعدة المجتهدين وإقرار بالفرق بين القبيلين وتحقق النزاع بين الفريقين.[٣١]

الثاني عشر أن المجتهدين لا يجوزون لاحد اخذ شيء من الأحكام بل ولا العمل لمن عرف الحكم بطريق الرواية يقيناً ما لم يبلغ رتبة الاجتهاد ولا يسمى [٣٢]هذا[٣٢] عالماً ولا فقيهاً بل متعلماً ومقلداً ولو كان بذلك عنده الف حديث بل يجب عليه الرجوع إلى رأى المجتهد وظنه ويترك ما علمه من الاحاديث

والاخباريين يقولون بل يجوز للعامي بل يجب عليه العمل بالحديث ولو واحدٍ اذا كان صحيحاً ثابتاً عن المعصوم صريح الدلالة بعد معرفة ذلك ومعرفة كونه غير معارض بمثله ولا يجوز له الرجوع إلى المجتهد بغير حديث صحيح واضح الدلالة.

الثالث عشر أن المجتهدين يجوزون العمل بالاحاديث التي [٣٣]تحتمل الوجوه[٣٣] ولبعضها وجه اظهر وكذا الايات

والاخباريين لا يجوزون ذلك بل لا يعملون إلا بالاحاديث الصريحة والايات المحكمة التي لا تشابه فيها بمقتضى العرف واللغة لأن المتشابه لا يجوز العمل به عندهم لنص القرآن.

الرابع عشر أن المجتهدين يجوزون الحكم في الاستحباب والكراهة بالحديث الضعيف بل ربما ذهب بعضهم إلى الحكم بفتوى المجتهد مجردة عن الدليل

والاخباريين لا يفرقون بين الأحكام الخمسة الوجبات والمستحبات والمحرمات والمكروحات والمباحات ولابد عندهم من العلم بالدليل.

الخامس عشر أن المجتهدين يقولون إنه متى مات المجتهد بطل تقليده وفتواه وإن قول الميت كالميت

والاخباريين يقولون الحق لا يتغير [٣٤]بالحياة[٣٤] والموت لأن الحق لا يتغير [٣٥]وسيجيئك بيانه إن شاء الله تعالى في المسئلة الاتية.[٣٥]

السادس عشر أن المجتهدين يجوزون الاخذ بظواهر القرآن من غير موافقة الحديث له بل هو [٣٦]اولى[٣٦] من الاخذ بالحديث لأنه قطعي المتن وقد يكون قطعي الدلالة بخلاف الخبر فإنه لا يكون قطعي المتن وقد لا يكون [٣٧]قطعي الدلالة[٣٧]

والاخباريين لا يجوزون الاخذ بظواهر القرآن إلا بما ورد تفسيره عنهم [عليهم] السلام أو ما وافق احاديثهم [٣٨]لأنه[٣٨] لا يعرف القرآن إلا من [٣٩]خوطب به ولأن القرآن فيه[٣٩] محكم ومتشابه والمحكم بيّن لا [٤٠]شك[٤٠] فيه وما عداه متشابه و[٤١]المتشابه[٤١] لا يعلمه إلا الراسخون في العلم [٤٢]وهم[٤٢] الأئمه عليهم السلام [٤٣]كما في نص الاية المعتضدة بالنص من الرواية فلا يجوز الاخذ بمتشابهه بغير نص ويمنعون صحة اولوية العمل بالقرآن لما ذكرناه ويمنعون وجه اولويتهم بل يدعون في الاخبار ما ادعوه اولئك في القرآن فيقولون في الاخبار ايضاً قطعي المتن [و]قطعي الدلالة كالمتواترات المحكمات وكون القرآن كله قطعي المتن لا يجدي لأنه ليس كله قطعي الدلالة فحينئذ ليس كل اية من القرآن تصلح دليلاً فكذا الاخبار فتأمل.[٤٣]

السابع عشر أن المجتهدين يجوزون الاجتهاد في الأحكام الشرعيه عند تعذر العلم بقول المعصوم

والاخباريين لا يفرقون [٤٤]في ذلك[٤٤] بل يوجبون الرجوع إليه مطلقاً [٤٥]فإن تحقق عندهم قوله قالوا [به] وإلا سكتوا ووقفوا لقولهم عليهم السلام ما علمتم فقولوا وما لم تعلموا فها واهوى بيده إلى صدره وقولهم عليهم السلام إنما الامور ثلثة امر بيّن رشده فيتبع وامر بيّن غيّه فيجتنب وامر مشكل يرد علمه إلى الله ورسوله وفي حسنة هشام بن الحكم أنه قال لأبي عبدالله عليه السلام ما حق الله على خلقه قال أن يقولوا ما يعلمون ويكفّوا عما لا يعلمون فاذا فعلوا ذلك ادوا إلى الله حقه وقولهم عليهم السلام لا يسعكم فيما ينزل بكم مما لا تعلمون إلا الكف عنه والتثبيت والرد إلى أئمة الهدى حتى يحملوكم فيه على القصد ويجلوا عنكم فيه [٤٥أ]العمي[٤٥أ] ويعرّفوكم فيه الحق قال الله تعالى فاسئلوا اهل الذكر إن كنتم لا تعلمون وغير ذلك من الاخبار الكثيرة.[٤٥]

الثامن عشر أن المجتهدين يعتقدون أن المجتهد اذا أصاب [٤٦]فله[٤٦] اجران اجر لإصابته واجر لكده وإن أخطأ فله اجر لكده وعنائه [٤٧]ويروون[٤٧] بذلك حديثاً عن النبي [٤٨]صلى الله عليه [وآله][٤٨]

والاخباريين يقولون بل هو ماثوم على كل حال لأنه إن أصاب الحق فقد

حكم فيه بغير علم من الله اذا اخذه بغير رواية وإن اخذه بها فليس هذا اجتهاداً وإن أخطأ فقد كذب على الله.

[٤٩]روى ابو بصير قال قلت لأبي عبدالله عليه السلام ترد علينا أشياء ليس نعرفها في كتاب الله ولا سنة فننظر فيها فقال لا أما أنك إن أصبت لم تؤجر وإن أخطأت كذبت على الله عزوجل رواه الكليني في الكافي واحمد بن محمد بن خالد في المحاسن وروى الصدوق في الفقيه عن الصادق عليه السلام قال القضاة اربعة ثلثة في النار وواحد في الجنة رجل قضى بجور وهو يعلم فهو في النار ورجل قضى بجور وهو لا يعلم فهو في النار ورجل قضى بحق وهو لا يعلم وهو في النار ورجل قضى بحق وهو يعلم فهو في الجنة وقولهم عليهم السلام الحكم حكمان حكم الله وحكم الجاهلية فمن أخطأ حكم الجاهلية أصاب حكم الله ومن أخطأ حكم الله أصاب حكم الجاهلية والاخبار في هذا المعنى كثيرة جداً

والايات القرآنية فمن لم يحكم بما أنزل الله فاولئك هم الظالمون فاولئك هم الفاسقون فاولئك هم الكافرون

ويمنعون صحة الحديث الذي رووه عنه صلى الله عليه وآله لأنه ليس في شيء من كتب حديثنا وإنما تفرد بروايته العامة فهو من موضوعاتهم وأما رواية اصحابنا له في أصول الفقه فهو غفلة منهم ولو صح لكان معارضاً باحاديث اصحابنا الصحيحة الموافقة للقرآن المخالفة للعامة وهما طريقان صحيحان في ترجيح الاخبار مع موافقتها لطريقين اخرين احدهما الشهرة وهو قولهم عليهم السلام خذ ما اشتهر بين اصحابك ودع الشاذ الذي ليس بمشهور ومعلوم أن الروايات التي ذكرناها مشهورة بين اصحاب الحديث من اصحابنا دون ذاك وثانيها موافقة الاحتياط فإنه احد وجوه الترجيحات كما جاء في الرواية.[٤٩]

التاسع عشر أن المجتهدين يقولون [٥٠]إن[٥٠] الامور اثنان بالنسبة إلى المجتهد [٥١]فإما[٥١] امر وضح دليله ولو ظناً فيجب الاخذ به وإما امر خفي دليله فيجب [٥٢]الاخذ بالاصل[٥٢] في نفس أحكامه تعالى ولا يجب الوقوف والاحتياط

والاخباريين يقولون [٥٣]بل الامور ثلثة بالنسبة إلى غير المعصوم امر[٥٣] بيّن رشده فيتبع [٥٤]وامر بيّن[٥٤] غيّه فيجتنب وشبهات بين ذلك فمن اخد بالشبهات ارتكب المحرمات وهلك من حيث لا يعلم فالاحتياط فيما لم يرد فيه نص عنهم عليهم السلام في كل مسئله واجب.

العشرون أن المجتهدين يقولون بصحة اخذ العقائد من أدلة المتكلمين من غير موافقة للقرآن والحديث

والاخباريين لا يجوزون ذلك كما عرفت سابقاً.

الحادي والعشرون أن المجتهدين يقولون بصحة اخذ قواعد أدلة الفقه من قواعد الأصول التي استنبطها علماء العامة

والاخباريين لا يجوزون ذلك بل يقولون يجب الاقتصار على ما دل عليه الحديث في الأصول والفروع [55]لقول الصادق عليه السلام لا تاخذ إلا عنّا تكن منا وقوله عليه السلام أما إنه شر عليكم أن تقولوا بشيء لم تسمعوه منا وقوله عليه السلام كل ما لم يخرج من هذا البيت فهو باطل وقوله عليه السلام والله لنحبكم أن تقولوا اذا قلنا وأن تصمتوا اذا صمتنا ونحن فيما بينكم وبين الله عزوجل ما جعل الله لاحد خيراً في خلاف امرنا وقوله عليه السلام ليس عند الناس حق ولا صواب إلا ما خرج من عندنا اهل البيت وقوله عليه السلام إن اردت العلم الصحيح فعندنا اهل البيت فنحن اهل الذكر الذين قال الله فاسئلوا اهل الذكر إن كنتم لا تعلمون وقولهم عليهم السلام لبعض اصحابهم شرّقوا أو غرّبوا فوالله لن تجدوا العلم الصحيح إلا عند قوم نزل عليهم جبرئيل وقول الله تعالى فاسئلوا اهل الذكر إن كنتم لا تعلمون وغير ذلك من الأدلة لهم على ذلك.[55]

الثاني والعشرون أن المجتهدين لا يجوزون اخذ العقائد من القرآن [56]والحديث بل ربما منع بعضهم اخذ مسائل أصول الفقه من الحديث اذا كان[56] بطريق الاحاد لاشتراطهم في الأصول القطع وخبر الواحد لا يفيده

والاخباريين يقولون بالعكس كما عرفت سابقاً.

الثالث والعشرون أن المجتهدين يجوزون الاختلاف في المسائل الشرعية بالاجتهادات الظنية ولا يفسقون من يقول بخلاف الحق للايات والروايات في مسائل الفروع حيث أن مناط الأحكام الظن فكل منهم يجوز صواب الآخر مع [57]ظنه[57] أنه مخطئ

والاخباريين لا يجوزون الاختلاف ويفسقون من قال بخلاف الحق للآيات والروايات الدالة على ذلك [58]وقول أمير المؤمنين عليه السلام في ذم اختلاف العلماء في الفتيا ترد على احدهم القضية في حكم من الأحكام فيحكم فيها برأيه ثم ترد عليه تلك القضية بعينها على غيره فيحكم فيها بخلاف قوله ثم تجتمع

القضاة بذلك عند إمامهم الذي استقضاهم فيصوب آراءهم جميعاً والههم واحد ونبيهم واحد وكتابهم واحد أفأمرهم الله سبحانه بالاختلاف فأطاعوه أم نهاهم عنه فعصوه أم أنزل الله سبحانه ديناً ناقصاً فاستعان [٥٨أ]بهم[٥٨أ] على إتمامه أم كانوا شركاء لله عزوجل فلهم أن يقولوا وعليه أن يرضى أم أنزل الله دينا تاماً فقصر الرسول صلى الله عليه وآله عن تبليغه وأدائه والله سبحانه يقول ما فرطنا في الكتاب من شيء الحديث

وهو صريح في المدعى نعم إلا اذا كان الاختلاف لا عن استنباط واجتهاد وإنما هو من اختلاف الاخبار فربما فهم بعضهم أنها واردة مورد الحق وبعضهم أنها واردة مورد التقية أو أنه لم يعلم بالمعارض أو أن أفهامها اختلفت بعد بذل الجهد والتحرّي من كل منهما في فهمها وحزم كل من القائلين بما فهم فهذا معذور لأنه إنما اخذ بالحديث ولكنه غفل عن معناه والغافل معذور ما دام غافلاً على أنه قد قيل للصادق عليه السلام إني خلفت اصحابك مختلفين أفأصلي خلفهم قال انا خالفت بينهم وقوله عليه السلام ويسعهم أن ياخذوا بما يقول الإمام وإن كان تقية وقولهم عليهم السلام بأيهما اخذت من باب التسليم وسعك إلى غير ذلك من الاحاديث فاذا كان الاختلاف إنما نشأ من الأئمة عليهم السلام لمصلحة التقية فالاختلاف حينئذ لا حظر فيه اذا كان غافلاً عما ورد على وجه الحق في الواقع وليس هذا كالاختلاف في المسائل الاجتهادية التي [٥٨ب]مردّ[٥٨ب] جميعها إلى أصول عامية وقواعد عقلية استنباطية لا مدخل لها في الحديث اصلاً ورأساً وهى كثيرة كقولهم إن الامر بالشيء يستلزم النهي عن ضده وقولهم الامر للوجوب والنهي للتحريم وقولهم بطريق الأولوية والعلة المستنبطة والاستصحاب في نفس الأحكام الشرعية بعد طروء ما يعرض لها وقولهم إن خطاب الشفاه لا يعم وقولهم إن المرء مكلف بظنه إلى غير ذلك من القواعد والأصول التي لا تؤدي إلى محصول.[٥٨]

الرابع والعشرون أن المجتهدين يمنعون من رجوع المجتهد إلى غيره ممن [٥٩][هو][٥٩] أدنى منه في العلم أو مساويه اذا لم يظفر بحديث بل إنما يجب عليه الرجوع إلى معرفته وقواعده

والاخباريين [٦٠]بل[٦٠] يوجبون عليه الفحص والسؤال عن الحُكم الشرعي وطلب الحديث من غيره ولو من تلميذ أو عامي ولا يقول فيه برأيه [٦١]لقول الأئمة عليهم السلام إنما هلك الناس لأنهم لا يسالون وقولهم في مجدور غسلوه فمات قتلوه ألا يمموه ألا سالوا فإن دواء العي السؤال.[٦١]

الخامس والعشرون أن المجتهدين يقولون إن علماء الشيعه في زمان الغيبة كلهم مجتهدون فالمتقدمون من زمان الكليني إلى زمان الشيخ على بن عبد العالى والشهيد الثانى واحد

والاخباريين يخالفونهم في ذلك ويقولون إن المتقدمين كالكليني والصدوق وامثالها اخباريون والسيد المرتضى والعلامة والشهيدان والشيخ على وامثالهم مجتهدون ولا يخفى صحة هذه الدعوى وفساد تلك.

السادس والعشرون أن المجتهدين يقولون إن الاجتهاد واجب إما كفائي [٦٢]وإما[٦٢] عيني واكثرهم يقول بالاول [٦٣]والاقل منهم يقول بالثاني[٦٣]

والاخباريين يقولون [٦٤]بل[٦٤] طلب العلم فريضة على كل مسلم وإن طلب العلم هو اخذه من المعصوم [٦٥]عليه السلام[٦٥] مشافهةً أو بواسطة أو [٦٦]وسايط وإن الناس كلهم مقلدون له كما قال المجتهدون يجب الاخذ عن المجتهد مشافهةً أو بواسطة أو وسائط وإن العالم[٦٦] والجاهل الآخذ من العالم بواسطة عن المعصوم أو مشافهةً يسمى [٦٧]عالماً[٦٧] بالحُكم الذي علمه وإنه لا يجب طلب العلم إلا عند الحاجة اليه.

السابع والعشرون أن المجتهدين لا يجوزون لاحد أن يقول [٦٨]بقول[٦٨] في حكم من الأحكام لم يقل به احد من العلماء السابقين ولو كان عنده على ذلك دليل واضح

والاخباريين لا يفرقون بين تقدم القائل وعدمه لأن العمل على الدليل وهو قول [٦٩]المعصوم[٦٩] وحده لا القائل وإن كثر بدونه.

الثامن والعشرون أن المجتهدين يوجبون تعلم علم الادب كالنحو والصرف والمنطق والكلام ونحوها [٧٠]لأنها[٧٠] شرط في الاجتهاد وهو واجب كفائي فيكون تعلم المقدمات واجباً كفائياً لأن ما لا يتم الواجب إلا به فهو واجب

والاخباريين لا يوجبون شيئاً من ذلك لعدم [٧١]توقف[٧١] فهم الحديث على ذلك ولا توقفت المعرفة على علم الكلام ولعدم احتياج الفقيه إلى علم المنطق أصلاً ورأساً وأن الاكتفاء بالسؤال عن الحديث وفهمه ومعرفة ألفاظه كاف في طلب العلم.

التاسع والعشرون أن المجتهدين لا يطلقون الثقة في الرواية إلا على الإمامي العدل الضابط

والاخباريين يقولون بل ما معنى الثقة في كلام علماء الرجال المتقدمين إلا الموثوق به في النقل المأمون من الكذب كما يعرف بالمعاشرة ولا يشترط أمانته ولا عدالته.

الثلاثون أن [٧٢]المجتهدين منا يقولون بأن[٧٢] طاعة المجتهد واجبة كطاعة الإمام مع أنهم يجوزون عليه الخطأ ولا يجوزونه على المعصوم وهم إنما استدلوا على عصمة الإمام بأنه لو جاز عليه الخطأ للزم إغرآء الله بالقبيح لأنه امر باتباعه واتباعه في حالة الخطأ قبيح فيكون الله امر به وهو محال لمنافاته لدليل [٧٣]العدل[٧٣] وهو بعينه [٧٤]عليهم وارد[٧٤] في المجتهد

والاخباريين لا يلزمهم من ذلك شيء لأنهم إنما يوجبون طاعة الإمام خاصةً ولم يوجبوا طاعة العالم إلا لكونه آخذاً عن الإمام والإمام امر به وإلا فلا تجب طاعته فافترق الحال وزال الإشكال.

الحادي والثلثون أن المجتهد والاخباري يجتمعان في مادة ويفترق كل منهما في اخرى فدل على أن بينهما عموماً وخصوصاً من وجه فيجتمعان في ما اذا كان العالم جامعاً لشرائط الاجتهاد ولم يقل بجواز اخذ الأحكام إلا بالرواية وهو مجتهد محدث كالمحقق الامين الاسترابادي و[٧٥]مولانا[٧٥] خليل القزويني والعلامة محسن [٧٦]الكاشاني[٧٦] و[٧٥]مولانا[٧٥] محمد طاهر القمي و[٧٥]مولانا[٧٥] عبد الله اليزدي وشيخنا الحر العاملي

وينفرد المجتهد عن المحدث اذا جمع الشرائط وجوز الاستنباط [٧٧]والاخذ[٧٧] بقواعد الأصول وأدلة العقل والإجماع من غير حديث صريح أو صحيح عام أو خاص كالمرتضى وابن ادريس والعلامة ومن تأخر عنه كابنه فخر الدين والشهيدين والمحقق الشيخ علي وأمثالهم

وينفرد المحدث عن المجتهد اذا لم يجمع شرائط الاجتهاد وحصل له معرفة بالحديث وفهمه كمن شافهناهم من تلامذة شيخنا الحر وهم [٧٨]كثير[٧٨] في المشهد المقدس وبعض ممن شافهناهم في [٧٩]غيرها[٧٩] فإن لهم معرفة بالحديث فوق المعرفة بل ربما [٨٠]تزيد[٨٠] على معرفة المجتهدين [٨١]لأن المجتهدين[٨١] يتجاوزون [٨٢]في معاني[٨٢] الاحاديث إلى ما هو غير مقصود فهو اخباري لا مجتهد [٨٣]فدل على[٨٣] أن بينهما فرقاً.

الثاني والثلثون أن الاخباريين لا يجيزون العمل بالبراءة الاصلية في نفي حرمة فعل وجودي كنفي حرمة مس المحدث حدثاً اصغر كتابة القرآن [٨٤]لا[٨٤] في نفي حكم

وضعي كنني نقض [للطهارة] الخارج من غير السبيلين مثلاً ويجيزون العمل بها في نني وجوب فعلٍ وجودي كنني وجوب صلوة الوتر [85]لا من حيث أصالة البراءة نفسها بل لما استفاض عنهم عليهم السلام من أن الناس في سعة ما لم يعلموا وما حجب الله علمه عن العباد فهو موضوع عنهم.[85]

الثالث والثلثون أن الاخباريين لا يجوزون الترجيح بالبراءة الاصلية عند تعارض الاخبار

والمجتهدين يجوزونه.

الرابع والثلثون أن جملة من الاخباريين منهم الفاضل الامين الاسترابادي [86]قدس سره[86] في الفوائد المدنية [87]يقولون بجواز[87] تأخير البيان عن وقت الحاجة

والمجتهدين مطبقون على امتناعه وإنما الخلاف عندهم في تأخير البيان عن وقت الخطاب.

الخامس والثلثون أن الاخباريين لا يجوزون العمل بالإجماع المدعى في كلام متأخري فقهائنا إذ لا سبيل إلى العلم بدخول قول المعصوم [88]عليهم السلام بغير الروايه عنه[88]

ووافقهم على هذا بعض المجتهدين [89]وذلك لأن الإجماع لا يكون حجة إلا بتحقق قول المعصوم لأنه ليس بحجة في نفسه إجماعاً منا وإنما هو كاشف عن قول الحجة وهو المعصوم فاذا لم ترد عنه في المسئلة المدعى الإجماع عليها رواية واحدة فضلاً عن الشياع أو التواتر فكيف يتحقق قول المعصوم فاذا لم يتحقق فلا يكون حجة ولا دليلاً البتة والمجتهدون قد عرفت في كلامهم أنه احد الأدلة حتى ادعى جماعة منهم أن الإجماع المنقول بخبر الواحد حجة قياساً على العمل بخبر الواحد في الرواية وهو باطل لأن العمل بخبر الواحد مأذون فيه بالاحاديث المستفيضة بل المتواترة بخلافه في القول بخبر الواحد بدعوى الإجماع.[89]

السادس والثلثون أن المجتهدين أو اكثرهم لا يلتفتون إلى خلاف معلوم النسب ولا يقدح في الإجماع.

وأما الاخباريون فلا [90]يلتفتون[90] إلى هذه القاعدة ولا فرق عندهم بين معلوم النسب ومجهوله بل العمل على الدليل والإجماع مطلقاً ليس دليلاً برأسه [91]كما عرفت بل الدليل إنما هو قول المعصوم فإن تحقق فإن كان مع معلوم النسب أو مجهوله أو لا فهو الحجة وإلا فلا.[91]

السابع والثلثون أن المجتهدين يقولون إن الاصل في الاشياء الإباحه [٩٢]لقوله عليه السلام كل شيء مطلق حتى يرد فيه نهي ولإطلاق قوله تعالى خلق لكم ما في الارض جميعاً[٩٢]

والاخباريين يتوقفون في ذلك [٩٣]بل عندهم ما لم يرد نص بجوازه لا سبيل إلى إباحته ولا تحريمه بل هو من قبيل الشبه والامور ثلثة حلال بيّن وحرام بيّن وشبهات بين ذلك[٩٣]

وانا عندي توقف في هذه المسئلة بل الذي يظهر لي ترجيح كلام المجتهدين لما يظهر من الايات والروايات والله اعلم.

الثامن والثلثون أن الاخباريين يعتقدون صحة الكتب الاربعة بأسرها إلا ما نصوا على ضعفه [٩٤]لأنها إما متواترة أو مستفيضة أو معلومة النسبة إلى اهل العصمة عليهم السلام كما صرح به غير واحد منهم[٩٤]

والمجتهدين لا يقولون بذلك.

التاسع والثلثون أن الاخباريين لا يجوزون العمل بالاستصحاب إلا فيما دل عليه النص [٩٥]مثل كل شيء طاهر حتى تعلم أنه قذر واذا توضأت فلا تتوضأ بعده حتى تعلم أنك أحدثت ونحوهما[٩٥]

ووافقهم على [٩٦]هذا[٩٦] بعض المجتهدين فعندهم أنه حجة كالمرتضى [٩٧]قال شيخنا علامة الزمان وهو الأقوى عندي وأما[٩٧] [٩٨] اكثر المجتهدين [٩٩]فعندهم[٩٩] أنه حجة [١٠٠]بل أن المحقق في المعتبر جعله قسيماً للأدلة الاربعة فجعلها خمسة والمتاخرون عنه أدرجوه في دليل العقل.[١٠٠]

الاربعون أن المجتهدين يوجبون على المجتهد الرجوع إلى أصول الفقه وقواعده التي استنبطها علماء العامة [١٠١]كالشافعي وأبي حنيفة مع إتفاق الكل على أن اول من اخترع أصول الفقه العامة واولهم الشافعي كما صرح به جماعة من العلماء[١٠١]

والاخباريين لا [١٠٢]يوجبون[١٠٢] ذلك [١٠٣]بل لا يجوزونه[١٠٣] إلا فيما دل عليه كلام اهل العصمة [١٠٤]فلا يجب الرجوع عندهم إلا إلى قواعد اهل العصمة خاصةً.[١٠٤]

[١–١] سقط في م.
[٢–٢] م: **اقول** الوجوة كتيرة **الاول**
[٣–٣] سقط في م.
[٤–٤] سقط في م.
[٥–٥] سقط في م.
[٦–٦] سقط في م.
[٧–٧] م: الاخذ بالظن في الأحكام الشرعية

٨–٨ م: يجز
٩–٩ سقط في م.
٩١–٩١ الصواب، ق: فها
١٠–١٠ سقط في م.
١١–١١ سقط في م.
١٢–١٢ سقط في م.
١٣–١٣ م: إمامياً ممدوحاً
١٤–١٤ م: بالاخبار الاحاد
١٥–١٥ م: و
١٦–١٦ م: و
١٧–١٧ سقط في م.
١٨–١٨ سقط في م.
١٩–١٩ م: الاجتهاد ح
٢٠–٢٠ سقط في م.
٢٠١–٢٠١ الصواب، ق: في
٢١–٢١ الصواب، ق: القيمة
٢١١–٢١١ الصواب، ق و م: القيمة
٢٢–٢٢ سقط في م.
٢٣–٢٣ سقط في م.
٢٤–٢٤ سقط في م.
٢٥–٢٥ سقط في م.
٢٥١–٢٥١ الصواب، ق: عليكم
٢٦–٢٦ الصواب، ق و م: متجز
٢٧–٢٧ سقط في م.
٢٨–٢٨ م: مطلقاً ومعرفة
٢٩–٢٩ سقط في م.
٣٠–٣٠ م: عنهم.
٣١–٣١ سقط في م.
٣١١–٣١١ الصواب، ق: بهما
ب٣١–ب٣١ الصواب، ق: ارجه
ت٣١–ت٣١ الصواب، ق: أعلا
٣٢–٣٢ سقط في م.

٣٣–٣٣ م: يحتمل اوجوه
٣٤–٣٤ الصواب، ق و م: بالحيوة
٣٥–٣٥ سقط في م.
٣٦–٣٦ م: الاولى
٣٧–٣٧ م: قطعتها
٣٨–٣٨ سقط في م.
٣٩–٣٩ م: خوطبت ولأنه
٤٠–٤٠ م: شبهة
٤١–٤١ م: هو
٤٢–٤٢ سقط في م.
٤٣–٤٣ سقط في م.
٤٤–٤٤ سقط في م.
٤٥–٤٥ سقط في م.
٤٥١–٤٥١ الصواب، ق: العما
٤٦–٤٦ م: له
٤٧–٤٧ م: ويريدون
٤٨–٤٨ م: ع
٤٩–٤٩ سقط في م.
٥٠–٥٠ سقط في م.
٥١–٥١ سقط في م.
٥٢–٥٢ م: الاصل
٥٣–٥٣ م: هى بالنسبة إلى غير المعصوم ثلثة امر
٥٤–٥٤ م: وبيّن
٥٥–٥٥ سقط في م.
٥٦–٥٦ م: والحديث اذا كان
٥٧–٥٧ سقط في م.
٥٨–٥٨ سقط في م.
٥٨١–٥٨١ الصواب، ق: به
ب٥٨–ب٥٨ الصواب، ق: مر
٥٩–٥٩ م: هو
٦٠–٦٠ سقط في م.

٦١-٦١ سقط في م.
٦٢-٦٢ م: أو
٦٣-٦٣ سقط في م.
٦٤-٦٤ سقط في م.
٦٥-٦٥ سقط في م.
٦٦-٦٦ م: وسايط وإن العالم
٦٧-٦٧ م: علماً
٦٨-٦٨ سقط في م.
٦٩-٦٩ م: المعصوم عليه السلام
٧٠-٧٠ م: لأنه
٧١-٧١ م: توقفت
٧٢-٧٢ م: المجتهدين يقولون
٧٣-٧٣ م: العدم
٧٤-٧٤ م: وارد عليهم
٧٥-٧٥ م: مولينا
٧٦-٧٦ م: القاساني
٧٧-٧٧ الصواب، ق و م: اخذ
٧٨-٧٨ م: كثيرون
٧٩-٧٩ م: غيره
٨٠-٨٠ م: يزيد
٨١-٨١ سقط في م.
٨٢-٨٢ م: في معرفة معاني
٨٣-٨٣ م: فبان
٨٤-٨٤ م: ولا
٨٥-٨٥ سقط في م.
٨٦-٨٦ سقط في م.
٨٧-٨٧ م: يجوزون
٨٨-٨٨ م: بدون الروايه
٨٩-٨٩ سقط في م.
٩٠-٩٠ م: التفات لهم
٩١-٩١ سقط في م.
٩٢-٩٢ سقط في م.
٩٣-٩٣ سقط في م.
٩٤-٩٤ سقط في م.
٩٥-٩٥ سقط في م.
٩٦-٩٦ سقط في م.
٩٧-٩٧ سقط في م.
٩٨ الزيادة في م: و
٩٩-٩٩ سقط في م.
١٠٠-١٠٠ سقط في م.
١٠١-١٠١ سقط في م.
١٠٢-١٠٢ م: يجيزون
١٠٣-١٠٣ سقط في م.
١٠٤-١٠٤ م: انتهى كلامه مخضاً.

Translation

Section Seven

He [i.e. Shaykh Yāsīn], may his eminence persevere, said 'What is the difference between our *mujtahid* and the Akhbārī?'

I say: 'The difference between the two is clear upon [application of] fair treatment and avoidance of partisanship and arbitrariness. It is based on different viewpoints and principles which no one will dispute who abandons the noose of prejudice and "who has a heart or who gives an ear and is attentive" (Qur'ān 50:37).

1. [1] The *mujtahids*[6] require [the practice of] *ijtihād* as an individual obligation or optionally.

[6] Although 'Abd al-Jalīl al-Qazwīnī had used the term 'Uṣūlī' in his sixth/twelfth-century *Kitāb al-Naqḍ*, as noted by Kohlberg ('Akbārīya', 716–17), al-Samāhijī's consistent use of *mujtahid* suggests 'Uṣūlī' may not have been uniformly used in the late-Ṣafawid period. Indeed in his question, as recorded by al-Samāhijī, Shaykh Yāsīn himself used the terms *mujtahid* and Akhbārī. See also n. 2 in part 2 of the present essay.

The Akhbārīs declare this unlawful. They require recourse to the transmission [as related] either [directly] from the Infallible or from someone who transmits from Him, however many intermediaries [there may be]. They have definitive evidence for this from the Qur'ān and the *sunna*. There is not space for [citing] that [evidence] in this brief exposition [and] we have collected it in a treatise for whose completion, revision, and conclusion we beseech God.

2. [2] The *mujtahids* say: In our opinion, there are four sources of evidence: the Qur'ān, the *sunna*,[7] consensus,[8] and the evidence of reason.[9]

The Akhbārīs accept [as evidence] only the Qur'ān and the *sunna*. Indeed, some limit themselves solely to the *sunna*. [The latter maintain] this is because the Qur'ān is not known to them since its exegesis is permitted only to Them, on Them be peace. One cannot say consensus and the evidence of reason are included in the Qur'ān and the *sunna*.[10] [This is] because we say if it were as you maintain the division [i.e. of the proofs] into four would be meaningless. One cannot say these two are supportive [but] not independent evidence. [This is] because we maintain if it were as you said the [fourfold] division would not be sound, since a part [of the division] would [no longer] remain as a part.[11]

3. [3] The *mujtahids* permit recourse to legal judgements based on conjecture.

The Akhbārīs forbid this. They accept only sure knowledge. For them this knowledge is [of two categories:] definitive—that is what corresponds to the reality—, [and] normal and transmitted—, that is what is confirmed to have been transmitted on the authority of the Infallible. They [i.e. the Akhbārīs] believe this [transmitted knowledge] cannot be erroneous; this is on the basis of normal, customary usage. The Lawgiver and the experts in language and convention call this sure knowledge.[12] [The Akhbārīs define] conjecture as what results from *ijtihād* and deduction without [recourse to] transmissions. Recourse to transmission is not called conjecture. On the prohibition against conjecture [the Akhbārīs] cite proofs from the Qur'ān and the *sunna*. Among these [proofs] are God's words: "Conjecture is sin" (Qur'ān 49:12); "Conjecture cannot replace the truth" (53:28); "Those who guess will perish" (51:10); "Do not follow that of which you have no knowledge" (17:36); Do not "say things of God of which you have no knowledge" (2:169, 7:33). [They also cite] the statement of the Imāms, on Them be peace, "Speak what you know, not what you do not know." And [there are] other clear proofs and outstanding evidence.

Because of their generality and absolute nature, qualification of [these statements] based on *uṣūl* [*al-fiqh*] (the principles of legal methodology) is arbitrariness. The [counter] criticism [advanced by the *mujtahids*], that acting on

[7] For the Twelvers the *sunna* includes, in addition to the Prophetic tradition, the *akhbār* of the twelve Imāms.

[8] On consensus, see also numbers 5, 10, 35, 36 below.

[9] *Al-adilla al-'aqlīyya* (the rational proofs) include, for example: (1) *aṣalāt al-barā'a* (the principle of presumed exoneration), that a natural condition of permission exists for actions in the absence of a specific, revealed text to the contrary. This principle was also referred to as *barā'at al-aṣl* and *ibāḥat al-aṣl*. See numbers 32, 33, 37. (2) *Aṣālat al-istiṣḥāb* (the principle of continuance), that a previously approved state of certainty is extended to a new situation, and its judgement is extended to this situation. See 39. (3) *Aṣālat al-takhyīr* (the principle of freedom to select one's own choice) which applies in the presence of doubt. On these see also the notes by 'Alī Qulī Qarā'ī, translator and annotator of al-Muḥaqqiq al-Karakī's *Ṭarīq Istinbāṭ al-Aḥkām*, *al-Tawḥīd 2*, number 3 (1405), 42–55. On al-Karakī, see numbers 25 and 31, and also our 'The myth of the clerical migration to Ṣafawid Iran: Arab Shī'ite opposition to 'Alī al-Karakī and Ṣafawid Shī'ism', *Die Welt des Islams* (forthcoming, 1993).

[10] That is, the Uṣūlīs accept the authority of consensus and reason based on some Qur'ānic verses and some statements of the Prophet and the Imāms. On this and nn. 13, 16, 18, and 29 below, the assistance of Dr. Ḥ. M. Ṭabāṭabā'ī is particularly acknowledged.

[11] That is, because the actual 'proofs' would only be the Qur'ān and the *sunna*, and the other two would no longer be 'proofs' by themselves.

[12] On the *mujtahid* and error see also numbers 18, 23, 30.

the basis of the *akhbār* is nothing but conjecture, is rejected. This is not called conjecture linguistically, nor in convention, nor legally. To admit the possibility of contradiction [of the truth] in it [i.e. in the *akhbār*] does not exclude it from [being a kind of sure knowledge] because, on the basis of normal experience or practice, legal knowledge cannot contain any contradiction. [This is] not [that knowledge in which the possibility of its contradicting the truth is denied] absolutely. This is because accepting [what has been transmitted] by the transmitters is permitted [by the Imāms] but conjecture is prohibited. [The juxtaposition of these two, permission and prohibition, demonstrates that acting on the basis of the traditions (which is permitted) is not an instance of acting on the basis of conjecture (which is prohibited), because[13]] inconsistency in Their statements is not permitted. In sum, they [i.e. the Akhbārīs] have many clear proofs on this for which there is not enough space herein.

4. [4] The *mujtahids* classify the traditions into four categories: sound, good, reliable, and weak.[14]

The Akhbārīs, however, classify them into [two categories:] correct and weak. Properly speaking, if acting on the basis of a tradition which is not sound but rather is good or reliable is permissible, then it is sound; otherwise it is weak. The terminology is [, therefore,] fourfold in letter but twofold in meaning.

5. [5] The *mujtahids* define the sound [tradition] as what the reliable, righteous Imāmī narrates on the authority of a similar individual back to the Infallible. The good [tradition] is that whose transmitters, or one of them, is a praiseworthy Imāmī not designated as reliable. The reliable is that whose transmitters, or one of them, is [classified] reliable [but] not an Imāmī. The weak is anything else.

The Akhbārīs define the sound [tradition] as what has definitely come and is proved on the authority of the Infallible. The degrees of soundness and certainty vary: sometimes [these are] based on successive transmission and sometimes on isolated traditions [15] accompanied by complementary evidence which attests to the soundness of the tradition. [These complements include:] conformity with the Qur'ān or consensus, or its being supported by other traditions, or other complements which attest to sure knowledge—as detailed by al-Shaykh [Muḥammad b. al-Ḥasan al-Ṭūsī (d. 460/1067)] [16] and others—or if the tradition is [transmitted in] one of those reliable *uṣūl* [17] acknowledged as sound by the Imāmīs. The weak is anything else. Our shaykh,[18] the most erudite of the age,

[13] Thanks to Dr. Ḥ. M. Ṭabāṭabā'ī for this exegetical addition.

[14] Some Twelver, and many Western-language, sources maintain al-Ḥasan b. Yūsuf, al-'Allāma al-Ḥillī (d. 726/1325), was the first to establish this four-part system of classification. See, for example, al-Khwānsārī, 4: 251; Madelung 'Akhbāriyya', 56; Kohlberg, 'Akḅārīya', 56, citing al-Astarābādī himself; idem, 'Aspects of Akhbārī thought in the seventeenth and eighteenth century', in, Nehemia Levtzion and John O. Voll (ed.), *Eighteenth-century renewal and reform in Islam* (Syracuse: Syracuse University Press, 1987), 134. According to a remark by al-'Allāma himself, however, Aḥmād b. Mūsā b. Ṭāwūs al-Ḥusaynī al-Ḥillī (d. 673/1274) appears to have first suggested the system; al-'Allāma was the first to apply the division in legal discussions. See al-Amīn, *A'yān al-Shī'a*, 10: 181; S. A. Arjomand, *The Shadow of God and the Hidden Imam: religion, political order, and societal change in Shi'ite Iran from the beginning to 1890* (London: University of Chicago Press, 1984), 55; Ṭabāṭabā'ī, p. 48 and n. 2 there. See also numbers 5, 29.

[15] On 'isolated traditions' see also numbers 12, 22, 35 and n. 32, part 2 of this essay.

[16] This is most likely a reference to al-Ṭūsī's discussion of *al-qarā'in* in his *'Uddat al-Uṣūl*. See the edition of vol. 1 of this work, together with the commentary by the Ṣafawid-period scholar Khalīl al-Qazwīnī, (ed.) M. M. Najafī (n.p., 1403/1983), 367–88. On al-Qazwīnī, see also nn. 4 and 31, part 2, and number 31.

[17] This probably refers to the 'four hundred *uṣūl*', collections of narratives from the Imāms compiled in their lifetimes. On these see al-Tehrānī, 2: 125–35, 135–67; A. A. Sachedina, *Islamic Messianism: the idea of the Mahdi in Twelver Shī'ism* (Albany: State University of New York Press, 1981), 147; Kohlberg, 'Akḅārīya', 716; idem, *'Al-Uṣūl al-Arba'umi'a'*, *Jerusalem Studies in Arabic and Islam*, 10, 1987, 128–66.

[18] This is most likely a reference to Sulaymān al-Baḥrānī al-Māḥūzī, on whom see n. 2 and numbers 11 and 39.

said, " It is sometimes said that deviating from the earlier terminology occurred with al-'Allāma [al-Ḥillī], may God have mercy on him, [and that] then subsequent scholars followed him. This [terminology] was not known before him."

6. [6] The *mujtahids* divide the community into two groups: *mujtahid* and *muqallid* (follower).

The Akhbārīs maintain all [members of] the community are followers of the Infallible and there is no *mujtahid* at all.

7. [7] The *mujtahids* say: During the period of the occultation sure knowledge is to be sought by means of *ijtihād*. During the period of the Imāms' presence within the community [they maintain sure knowledge is to be sought] by recourse to the Infallible, even if through intermediaries. *Ijtihād* is not permitted in such circumstances. That was the practice of those who transmitted *akhbār* from the Imāms.

The Akhbārīs do not distinguish between the period of the occultation and the [Imāms'] presence. Rather, " What is lawful [according to the Prophet] Muḥammad is lawful until the day of resurrection, and what is unlawful according to Him is unlawful until the day of resurrection. There will be nothing else other than it [i.e. the Law], and nothing else will come," as in the *ḥadīth*.

8. [8] The *mujtahids* permit only a *mujtahid* [to issue] a formal legal opinion and to occupy a judgeship and the position of *muḥtasib*. They do not permit following someone who is not a *mujtahid*.

The Akhbārīs forbid this. They maintain that rather the transmitter of the traditions of the Ahl al-Bayt, on Them be peace, [that is] the one informed as to Their judgements [, is authorized to undertake these tasks]. They do not permit following the *mujtahid* with respect to a statement or action for which no statement has been transmitted from the People of Infallibility. This is based on the statement of [the sixth Imām Ja'far] al-Ṣādiq (d. 147–48/765), on Him be peace, " Look to one of those among you who narrates our traditions "; [19] and the statement of our Master, the Mahdī, on Him be peace, " As for future contingencies, seek recourse concerning them from the narrators of our traditions. They [i.e. the narrators] are my proof to you and I am the Proof of God to them "; and Their statement, " Distinguish the ranks of the *rijāl* on the basis of their transmission from Us." To interpret all these [instructions as referring to] the *mujtahid* who sometimes makes statements based on transmission and sometimes by deduction is unjustifiable.

9. [9] The *mujtahids* classify the *'ālim* now [i.e. during the occultation]—the one to whom [legal] recourse is required—as [either] an absolute *mujtahid* or a partial *mujtahid*.[20]

The Akhbārīs say the *'ālim* is of one type, the partial one. He knows some judgements through transmissions, but not all. [The latter] are those for which he knows no transmission which necessitates sure knowledge. [They maintain] there is no absolutely knowledgeable authority who knows all the judgements except the Infallible. However, [knowledge] may be of different levels [for different people]; [an individual] may be more or less thorough. This is because we deny the possibility of a *mujtahid* who can derive applied law from the *uṣūl*—although he has perfected his intellectual tools and the strength of his

[19] This is a line from the famous ' delegation ' *khabar* of 'Umar b. Ḥanẓala, cited in al-Kulaynī's *al-Kāfī*, and later also in al-Ṣadūq's *al-Faqīh* and al-Ṭūsī's *Tahdhīb al-Aḥkām*, and generally understood in the secondary sources as having been used to justify the authority of the *fuqahā* during the occultation. See also the reference to this *khabar* in number 11, nn. 30 and 36 below, and note 15 of part 2.

[20] That is, a *mujtahid* recognized as an expert only in certain specific disciplines.

preparedness—in all judgements such that he does not hesitate on an issue nor waiver in a judgement. None of our [i.e. Twelver] *'ulamā'* surpass what al-'Allāma [al-Ḥillī], on him be the mercy of God, achieved so far as the faculty of deduction. [Yet,] his books are full of [instances where he could not make a decision and so] refrained [from issuing a ruling] and faced legal difficulties. One cannot say that had he spent [more] time and expended [more] effort he would have succeeded. [This is] because we maintain if he had the ability he would have accomplished this. None of the other Sunnī *'ulamā'* achieved what the Four *fuqahā* achieved.[21] Rather, perhaps only they [i.e. these four Sunnī scholars] attained [the level of] absolute *ijtihād*. [Yet] it is soundly reported of [one these four, Abū 'Abdallāh] Mālik [b. Anas (d. 179/795)] that he was queried on forty issues and on thirty-six he replied " I do not know ".

10. [10] The *mujtahids* say: No one attains the level of issuing a legal ruling and knowledge of the traditions except the individual who knows the six principal disciplines.[22] These are theology, legal methodology, Arabic grammar, verb conjugation and lexicography, logic, and the four sources of the law—that is, the Qur'ān, the *sunna*, consensus, and the evidence of reason. Some maintain [this level] can be attained only by the individual who knows approximately fifteen disciplines.[23]

The Akhbārīs stipulate only [the ability] to understand Arabic. This involves [a knowledge of] some points of [Arabic] grammar and verb conjugation—some even deny that knowledge of Arabic grammar and verb conjugation is always a condition [for attaining that level], but there is no room [here] to discuss this question—and knowledge of the terminological conventions and the discourse of the Imāms, on Them be peace. Nothing else is stipulated except that on which understanding Arabic is based.

11. [11] When the *akhbār* disagree the *mujtahids* decide preference based on [their own] opinions and reflections.

The Akhbārīs permit this only based on what they have of the transmitted preferences [of the Imāms], such as the accepted tradition of 'Umar b. Ḥanẓala and others like it, except where necessity dictates. The latter situation is as if a tradition came which contradicted the sound, established traditions and could not be reconciled based on the preferences stated in the traditions but [only] by some kind of interpretation. So it is not possible at this time to reject it or act on it if the contradictory report is sound and safe and conforms with the practice [of the Twelver community]. This is because adherence to [such a tradition] is forbidden in the *akhbār*.

Our shaykh [i.e. Sulaymān al-Baḥrānī al-Māḥūzī], the most erudite of the age, may God sanctify his secret, in one of his replies concerning the differences between the *mujtahid* and the Akhbārī, said " Among these is that when there is a contradiction in the *akhbār* the Akhbārīs do not determine preferences except based on the rules established by the Ahl al-Dhikr [i.e. the Prophet and the Imāms[24]], may the peace of God be upon Them, which Thiqat al-Islām [Muḥammad b. Ya'qūb al-Kulaynī, d. 329/941] mentioned in the preface to *al-Kāfī*. If they [i.e. these rules] are absent, then according to some *akhbār* [it is proper to] abstain, as He [the Imām], on Him be peace, said, ' Defer this until you meet your Imām.' However, according to some other [traditions this is a matter of] an option and action based on what one chooses [from among the two] as an act of submission, as He [i.e. the Imām] says ' You are free to choose

[21] That is, the founders of the four Sunnī schools of law. See also number 40.
[22] See also number 28.
[23] See also number 28.
[24] On this term see also number 17 below.

whichever of the two you choose as an act of submission.' Some [try to] reconcile the two [above instructions by maintaining that] the first pertains to worldly matters, such as inheritance, etc., in which there is no room for option [because each tradition conflicts with the interests of the other party], and the second [pertains to] all other instances. Thiqat al-Islām [al-Kulaynī] in *al-Kāfī* apparently supported [the concept of the individual's] choice in all cases [i.e. in both worldly and religious matters], although the matter was to be referred to the *'ālim*, on Him be peace. He, on him be the mercy of God, said 'We find nothing more cautious and accommodating than referring knowledge of all this to the *'ālim*, and accepting the ease and accommodation which He offered in His statement "You are free to choose whichever of the two you choose as an act of submission".' Here ends [al-Kulaynī's statement]. As for the *mujtahids*, their interpretations are based on *ijtihād* without limits or enumeration. Most of [these interpretations] are extremely far-fetched. Perhaps following the Akhbārī path in giving preference is more sound."

Here ends the statement of our shaykh [i.e. al-Baḥrānī al-Māḥūzī], may God elevate his grade [in Heaven] and add to the weight of his scale [of good works]. In it, as you see, is fairness to the Akhbārīs, acknowledgement of the inferiority of the principle of the *mujtahids*, confirmation of the differences between the two groups, and examination of the dispute between the two factions.

12. The *mujtahids* do not permit anyone to infer any of the legal norms nor [anyone] to act who comes to know the law of a specific case with certainty by means of transmissions, unless he attains the level of *ijtihād*. [Such a person] is not classified as an *'ālim* or a *faqīh* but rather an apprentice and follower, even if he has a thousand traditions relevant to that specific case. He is obliged to refer to the opinion of the *mujtahid* and his conjecture and to abandon what he knows of the traditions.

The Akhbārīs maintain the ordinary believer[25] is permitted to, indeed is obliged to, act on the basis of the tradition—even if it is isolated—if it is sound, confirmed [as having been transmitted] from the Infallible, and unambiguous in guidance, when [the individual] comes to know [such a tradition] and knows it is not contradicted by a similar [tradition]. [They maintain] he [i.e. the ordinary believer] is not permitted to refer to the *mujtahid* in [decisions he makes in] the absence of a tradition which is sound and whose guidance is clear.

13. The *mujtahids* permit acting on the basis of those traditions which allow [differing] interpretations, and some which have a more obvious interpretation [than the one they choose]. [They hold] likewise with respect to Qur'ānic verses.

The Akhbārīs do not permit this. Rather they act only on the basis of unambiguous traditions and firmly-established [Qur'ānic] verses in which there is no vagueness in accordance with customary usage and [the Arabic] language. [This is] because according to them, in conformity with the explicit instruction in the Qur'ān, it is not permitted to act on the basis of the Qur'ānic verses which are obscure.[26]

14. [13] The *mujtahids* permit judgement with regard to [the two categories of] desirable or reprehensible based on weak traditions. Indeed some maintain the *fatwā* of the *mujtahid* can itself be the basis for judgement [that something is desirable or reprehensible] without any [textual] evidence.

[25] On *al-'āmmī*, see also number 24, and n. 13, part 2.
[26] This is a reference to Qur'ān 3: 7,
'It is he who has sent down to you the Book in which some verses are clear to be understood and others are obscure. Those whose hearts are perverse will follow what is obscure therein ...'

The Akhbārīs do not distinguish between the five categories of rules.[27] For them sure knowledge must be based on evidence.

15. [14] The *mujtahids* maintain that when the *mujtahid* dies it is no longer valid to follow him and his *fatwā*. [They maintain] the statement of the dead is like the dead.

The Akhbārīs maintain truth does not change by virtue of life or death because the truth does not change. God willing the explanation of this will come in the following question.

16. [15] The *mujtahids* permit recourse to the ostensible meaning of the Qur'ān absent agreement with the traditions. Indeed [for them] this is preferable to recourse to the traditions because, unlike the *khabar*, the text [of the Qur'ān] is definitive and its evidence may be definitive. [They maintain] the text [of the *khabar*] is not definitive and its evidence may not be definitive.

The Akhbārīs do not permit recourse to the ostensible meaning of the Qur'ān except that whose exegesis has come on Their authority, on Them be peace, or what conforms with Their traditions. [This is] because the only individual who knows the Qur'ān is he to whom it was spoken and because the Qur'ān contains both what is firmly established and what is ambiguous. What is " firmly established " is clear and without doubt. Anything else is ambiguous. No one knows " what is ambiguous " except " those who are firmly rooted in the religious knowledge ". These are the Imāms, on Them be peace, as is in the text of the [Qur'ānic] verse [28] supported by the text from transmissions. It is not permitted, therefore, to utilize vague ideas without an explicit designation. They deny the correctness of the preference of following the text of the Qur'ān in accord with what we have said, and reject the argument for their preference. Rather they [i.e. the Akhbārīs] claim for the *akhbār* what they [i.e. the *mujtahids*] claim for the Qur'ān. They say that among the *akhbār* also there are those which are definitive in text and definitive in evidence like the firmly established successively transmitted [*akhbār*]. All of the Qur'ān's being definitive in text does not help because it is not all definitive in evidence. Therefore, not every Qur'ānic verse is suitable as evidence. And the *akhbār* [are also like that]. So consider this [carefully].

17. The *mujtahids* permit *ijtihād* in [the formulation of] legal judgements in the event it is impossible to know the statement of the Infallible.

The Akhbārīs do not make such a distinction but require recourse to Him absolutely. If His statement can be established [the Akhbārīs] will propound it; if not they keep silent and make no decision. Thus they are in agreement with Their statement, on Them be peace, " Whenever you know, speak; but if you do not know, then this ", and He stretched out His hand to his chest; [29] and Their statement, on Them be peace, " Matters are of three [sorts]: a question wherein integrity of conduct is clear, so it should be followed; a question wherein delusion is clear and should be avoided; and, a difficult question, knowledge concerning which should be referred to God and His prophet." [30] In the good

[27] The five categories are: (1) *wājib* or *farḍ*, actions whose performance is to be rewarded and neglect of which will be punished: (2) *sunna* or *mustaḥabb*, or *mandūb*, actions recommended or voluntarily meritorious, neglect of which will not be punished, but performance of which will be rewarded; (3) *mubāḥ* or *murakhkhaṣ*, actions whose performance or neglect is neutral; (4) *makrūh*, actions or things whose performance or consumption is reprehensible and disapproved, but not punishable; (5) *ḥarām*, actions or things whose performance or consumption is a punishable sin.

[28] The phrase is found in Qur'ān 3:7 and 4:162. See also n. 26 and number 2 above.

[29] That is, one must refrain from any judgement.

[30] The wording echoes that in the *khabar* of 'Umar b. Ḥanẓala, on which see notes 19, 36 of the present section and n. 15 of section two. See also numbers 19 and 37.

[*khabar*] of Hishām b. al-Ḥakam, he said to Abū 'Abdallāh [i.e. Imām Ja'far al-Ṣādiq], on Him be peace, " What is God's right in relation to His creatures? " He [i.e. the Imām] replied, " That they speak what they know and refrain from what they do not know. If they do that they render to God His right." There is also Their statement, on Them be peace, " When you do not know [the legal status] of whatever comes to you, you must avoid it and be careful, and refer it to the Imāms of the Truth so that they can instruct you as to the correct way in that instance, remove the ambiguities, and teach you what is the truth about it." Almighty God said, " Ask the Ahl al-Dhikr if you do not know " (Qur'ān 16:43). There are also many other *akhbār*.

18. The *mujtahids* believe that when the *mujtahid* attains the truth he is due two [heavenly] compensations: one for attaining the truth and one for his effort. [Even] if he errs, he is due [one] compensation for his effort and his toil. In support of this they cite a tradition of the Prophet, may the blessings of God be upon Him and His Family.

The Akhbārīs maintain [that] in any instance [the *mujtahid* is committing] a sin. [This is] because if he attains the truth he will have rendered a judgement without sure knowledge from God when he derives it without a transmission. If he attains [the truth] based on [a narrative] this is not [what is called] *ijtihād*. If he errs then he will have lied about God.

Abū Baṣīr relates: " I said to Abū 'Abdallāh [i.e. Imām Ja'far], on Him be peace, ' Where things are referred to us about which we have no knowledge from the Qur'ān or *sunna* should we not examine them? ' He said, ' No indeed. If you attain the truth you will not be compensated. If you err you will have lied about God, may He be exalted and glorified.' " Al-Kulaynī related this in *al-Kāfī* as did Aḥmad b. Muḥammad b. Khālid [al-Barqī (d. late third century/ninth century)] in *al-Maḥāsin*. And in [*Man lā Yaḥḍarahu*] *al-Faqīh*, [Muḥammad b. 'Alī al-Qummī, Ibn Bābawayh (d. 381/991–92)] al-Ṣadūq related from [Imām Ja'far] al-Ṣādiq, on Him be peace, [that] He said " There are four [sorts of] judges [of whom] three are in Hell and one is in Paradise. A man who knowingly judges in accordance with injustice is in Hell. A man who unknowingly judges in accord with injustice is in Hell. A man who unknowingly judges in accord with truth is in Hell. A man who knowingly judges in accord with truth is in Paradise." [There is also] Their statement, on Them be peace, " There are two [sorts of] judgements. The judgement of God and the judgement of ignorance. Whoever errs in the judgement of ignorance attains the judgement of God, and whoever errs in the judgement of God attains the judgement of ignorance." There are many *akhbār* with this intent.

[There are also] the Qur'ānic verses, " Who does not judge in accord with what God has revealed, they are the wrongdoers " (Qur'ān 5:45), " and they are the sinful " (5:47), " and they are the unbelievers " (5:44).

They [i.e. the Akhbārīs] deny the soundness of the tradition which they [i.e. the *mujtahids*] transmit on the authority of Him [i.e. the Prophet], on Him and His family be peace, because it is in none of the books of our traditions. On the contrary it is transmitted solely by the Sunnīs and is one of their fabrications.[31] As for the transmission of it by our companions in *uṣūl al-fiqh*, this is an inadvertence of theirs. If it were sound it would be contradicted by the sound

[31] The *ḥadīth* of the Prophet in question is cited by the Sunnī traditionist Abū'l-Ḥasan Muslim b. al-Ḥajjāj (d. 261/875) in his *Ṣaḥīḥ*, 12 (Cairo, 1347–49/1929–30), 13–14, on the authority of 'Amr b. al-'Āṣ:

' If a judge makes the right decision through
ijtihād he shall be doubly compensated;
if he errs he shall be compensated once.'

traditions of our companions which agree with the Qur'ān and disagree with the Sunnīs. These are two correct methods for determining preference in the *akhbār*. There are also two other methods. One of these is *al-shuhra* (widespread knowledge). This is [based on] Their statement, on Them be peace, " Take that which has become widely-known among your companions and cast aside the anomalous which is not well-known." Clearly the transmissions we have cited are well-known among those of our companions who specialize in the traditions unlike that [tradition of the Prophet which they cite]. The second [method] is conformity with caution. This is one of the bases of giving preferences as is related in the transmissions.

19. The *mujtahids* say: In relation to the *mujtahid* questions are one of two [sorts]. Either it is a question whose evidence is clear even if based on conjecture. Then adherence to that is obligatory. Or it is question whose evidence is unknown. Then it is obligatory to take recourse to the bases in the Almighty's rules themselves. Hesitation and caution are not required.

The Akhbārīs say: On the contrary, in relation to someone other than the Infallible these questions are [of] three [sorts]. [The first is] a matter in which right conduct is clear and is to be pursued. [The second is] a matter [in which] delusion is clear and is to be avoided. [The third comprises] uncertainties between these.[32] Whoever follows a course based on uncertainties is doing what is forbidden. He will perish because he has no knowledge. Caution is obligatory with regard to every issue on which there is no text transmitted on Their authority, on Them be peace.

20. The *mujtahids* maintain the correctness of inferring doctrines on the basis of the evidence of the theologians absent agreement with the Qur'ān and the traditions.

The Akhbārīs do not permit this as you have already seen.

21. The *mujtahids* maintain the correctness of inferring the principles of the sources of evidence in *fiqh* from the principles of legal methodology deduced by the Sunnī *'ulamā'*.[33]

The Akhbārīs do not permit this. On the contrary, they maintain the necessity of being limited in matters of legal methodology and positive law to the evidence found in the traditions. [This is] based on the statement of [Imām Ja'far] al-Ṣādiq, on Him be peace, " Do not take [religious instruction] except from Us; this way you will be one of Us "; and His statement, on Him be peace, "Woe to you if you propound something you did not hear from Us "; and His statement, on Him be peace, " All of what does not come from this House is invalid "; and His statement, on Him be peace, "By God, we wish you to speak when We speak and to be silent when We are silent. We are what is between you and God, may He be exalted and glorified. God did not make it good for anyone to oppose Our command "; and His statement, on Him be peace, "The people have neither truth nor what is proper except what comes from Us, Ahl al-Bayt "; and His statement, on Him be peace, " If you want sound knowledge it is with us, Ahl al-Bayt. We are Ahl al-Dhikr of whom God said, ' Ask Ahl al-Dhikr if you do not know ' " (Qur'ān, 16:43); and Their statement, on Them be peace, to one of Their companions, " Go east or west and by God you will never discover sound knowledge except with those to whom Jibrā'īl came down "; and the statement of God, " Ask Ahl al-Dhikr if you do not know "; and others of their proofs they have for this.

[32] See also number 37.
[33] See also number 40.

22. [18] The *mujtahids* do not permit inferring doctrines from the Qur'ān and traditions. Indeed some sometimes forbid inferring issues in *uṣūl al-fiqh* from the traditions if this is based on isolated [traditions]. [This is] because they require certainty in legal methodology and the isolated tradition does not provide this.

The Akhbārīs maintain the opposite as you have already learned.

23. [16, 19] The *mujtahids* permit difference of opinion on legal issues based on conjectural *ijtihād*. They do not declare sinful someone who makes a statement contrary to the truth on issues of positive law in so far as the basis of the judgements is conjecture. Each of them allows the other to be correct even if he thinks he is in error.

The Akhbārīs do not permit difference of opinion and declare sinful someone who makes a statement contrary to the truth. [They do so] on the basis of the verses [of the Qur'ān] and the transmissions which furnish evidence of this, and the statement of the Commander of the Faithful [i.e. Imām 'Alī], on Him be peace, censuring the disagreement of the *'ulamā'* in their issuing of a *fatwā*: "An issue may be referred to one of them concerning a certain legal ruling and he gives a ruling on the matter based on his opinion. Exactly the same question is then referred to someone else, and he issues a ruling which disagrees with his [i.e. the first's] judgement. Then the judges come together with their Imām who appointed them to judge, and he declares all their opinions correct. [Yet] their God is the same, their prophet is the same, and their scripture is the same. Did God the Most High command them to disagree and so they obeyed Him? or did he forbid them and they disobeyed? or did Most Holy God reveal a flawed religion and ask them for help for its completion? or are they partners of God, exalted and glorified, and so they have the right to make their own decision and He has to be content? or did God reveal a complete religion but the Prophet, blessings on Him and His Family, did not impart it properly while Most Holy God said 'We neglected nothing in the Qur'ān' (Qur'ān 6:38), [... to the end of] the tradition."

This is an explicit [statement] about what is claimed [by the Akhbārīs], except when the disagreement does not stem from a deduction or *ijtihād* but rather from a disagreement in the *akhbār*. Perhaps some understand these [*akhbār*] convey the truth but others understand they convey *taqīya*, or one does not know it is contradicted, or two disagree in their understanding [of the *akhbār*] after each had striven and undertaken research to understand them, and each reached a decision based on what he understood. This is excusable because he used the tradition but was unaware of its meaning. The unaware [person] is excused as long as he is unaware, based on what was said to [Imām Ja'far] al-Ṣādiq, on Him be peace, "I left your companions disagreeing so can I pray behind them?" He [i.e. the Imām] said, "I have left them to disagree"; and His statement, on Him be peace, "It is permitted [for them to] use what the Imām says even if it is *taqīya*"; and Their statement, on Them be peace, "You are free to choose whichever of the two you choose as an act of submission." And so in other traditions. If the disagreement arose from the Imāms, on Them be peace, for the benefit of *taqīya*, disagreement then is not forbidden if someone is unaware of what has been transmitted in reality concerning the truth. This is not like disagreement in issues related to *ijtihād*, all of which have been shown to belong to general principles and rational deductive rules which are not present in the traditions at all. There are many of these, such as Their statement that the command [to do] something necessitates forbidding its opposite; and Their statement, "The command is for duty and the prohibition is for making unlawful"; and Their support for the method of priority, deduced cause, and

continuance in the legal issues themselves after the occurrence of the issue at hand; and Their statement that the speech of the lips is not universal; and Their statement that man is under obligation [to act] on the basis of his conjecture, to other rules and principles which do not result in an outcome.

24. [20] The *mujtahids* forbid the *mujtahid* to refer to someone inferior or equal to himself in sure knowledge if he has not found a tradition. Rather he is obliged to refer to his knowledge and his rules.

The Akhbārīs, by contrast, make incumbent on him searching and asking for the legal norm and seeking traditions from someone else even if from a student or an ordinary believer. He must not make a statement [on the issue] on the basis of his [own] opinion. This is based on the statement of the Imāms, on Them be peace, " The people perish only because they do not ask questions"; and Their statement concerning someone afflicted with smallpox whom [the people] washed but [who] then died: " They killed him. Why did they not use sand [for ritual purification]? Why did they not ask questions? The remedy for ignorance is raising questions."

25. The *mujtahids* maintain all the Shīʿī *'ulamā'* in the period of the occultation were *mujtahids*. The ancients, from the time of al-Kulaynī to the time of al-Shaykh ʿAlī b. ʿAbd al-ʿĀlī [al-Karakī] (d. 940/1534) and [Shaykh Zayn al-Dīn b. ʿAlī] al-Shahīd al-Thānī (d. 965/1557), [were thus] one [i.e. all *mujtahids*].

The Akhbārīs differ with them on this. They maintain the ancients, such as al-Kulaynī and al-Ṣadūq and those like them, were Akhbārīs. Al-Sayyid [ʿAlī b. al-Ḥusayn al-Mūsawī] al-Murtadā (d. 436/1044), al-ʿAllāma [al-Ḥillī], the two martyrs,[34] and al-Shaykh ʿAlī [al-Karakī], and others of that sort were *mujtahids*. The correctness of this claim and the falseness of the other are clear.

26. [1] The *mujtahids* maintain *ijtihād* is obligatory either collectively or individually. The majority maintain the first and the minority maintain the second.

The Akhbārīs maintain rather that seeking sure knowledge is a [religious] obligation on every Muslim, that the seeking of sure knowledge [means] taking it from the Infallible, on Him be peace, directly or by an intermediary or intermediaries, that all the people are followers of Him—just as the *mujtahids* say it is obligatory to take [sure knowledge] from the *mujtahid* directly or by intermediary or intermediaries—and that the scholar and the ignorant [individual] who takes from the scholar by an intermediary from the Infallible or directly are [both] called a knower of the judgement he has learned, and that seeking sure knowledge is not obligatory except in case of need.

27. [21] The *mujtahids* do not allow anyone to uphold a legal norm none of the previous *'ulamā'* has vouchsafed even if he has clear evidence on the issue.

The Akhbārīs do not distinguish between the precedence of someone who upheld the judgement or the lack thereof. [This is] because action is based on evidence, that is solely the statement of the Infallible, on Him be peace. [Action is] not [based on] the maker of a statement—even if there are many [of the latter]—absent Him.

28. The *mujtahids* require the study of the disciplines of *al-adab* such as grammar and morphology, logic and theology and similar [disciplines]. [This is] because this is a condition in *ijtihād* which is a collective obligation. The study of the[se] premises is a collective obligation because what is accomplished only by that [i.e. by what is obligatory] is itself obligatory.

The Akhbārīs require nothing of this. [This is] because understanding

[34] The first *shahīd* (martyr) was Muḥammad b. Makkī al-ʿAmilī (d. 786/1384). See also the reference to him in number 31.

traditions does not depend on it, sure knowledge does not depend on the discipline of theology, and because the *faqīh* does not need the discipline of logic at all. To inquire about the tradition, to understand it, and to be acquainted with its wording are sufficient in seeking sure knowledge.

29. [22] The *mujtahids* do not apply [the term] "the reliable" in transmissions except to the righteous, exactly transmitting Imāmī.

The Akhbārīs maintain that on the contrary the meaning of "the reliable" in the discourse of scholars of earlier generations of learned personalities is nothing but the individual who is reliable in transmission [and] trusted not to lie. This is known by means of social intercourse. Neither [his general] trustworthiness nor his probity are mandatory.

30. [23] The *mujtahids* among us maintain that obedience to the *mujtahid* is as obligatory as obedience to the Imām, although they permit [the *mujtahid*] to err but do not grant this [possibility] to the Infallible. Regarding the infallibility of the Imām they argued that if the possibility of His making an error were allowed it would follow God had initiated evil since He ordered that He be followed while following Him in a case of error is evil. Thus God would have commanded it. This is impossible because it contradicts the evidence of justice. It is this exactly which is valid against them concerning the *mujtahid*.

None of this applies to the Akhbārīs because they require obedience only to the Imām and do not require obedience to the scholar, unless his source is the Imām and the Imām had commanded it. If not, obedience to him [i.e. the scholar] is not required. The situation [of the two groups] is thus different, and the difficulty disappears.

31. The *mujtahid* and the Akhbārī are combined in one matter but separate on another, demonstrating that between them there is a generality and a particularity in one respect. They are combined where the *'ālim* has attained the qualifications for *ijtihād*, but does not permit inferring norms except on the basis of the transmissions. [Such an individual] is a *mujtahid-muḥaddith*, like al-Muḥaqqiq [Muḥammad] al-Amīn al-Astarābādī, Maulāna Khalīl [b. Ghāzī] al-Qazwīnī, al-'Allāma Muḥsin al-Kāshānī, Maulāna Muḥammad Ṭāhir [al-Shīrāzī] al-Qummī, Maulāna 'Abdallāh al-Yazdī,[35] and our shaykh [Muḥammad b. al-Ḥasan] al-Ḥurr al-'Āmilī.

The *mujtahid* is separate from the *muḥaddith* if he has attained the qualifications [for *ijtihād*] and permits deduction, employment of the rules of legal methodology, the rational sources of evidence, and consensus, without a tradition which is clear or sound, general or specific. [This is] like al-Murtaḍā, [Muḥammad b. Manṣūr] Ibn Idrīs [al-Ḥillī (d. 598/1202)], al-'Allāma [al-Ḥillī], those who succeeded him such as his son Fakhr al-Dīn [i.e. Fakhr al-Muḥaqqiqīn, Muḥammad b. al-Ḥasan al-Ḥillī (d. 771/1370)], the two martyrs, al-Muḥaqqiq al-Shaykh 'Alī [al-Karakī], and others like them.

The *muḥaddith* is separate from the *mujtahid* if he has not attained the qualifications for *ijtihād* and possesses knowledge and understanding of the traditions, like those of the students of our shaykh al-Ḥurr [al-'Āmilī] with whom we spoke—of whom there are many in holy Mashad—and some of those with whom we have spoken elsewhere. They have knowledge of the traditions greater than [common] knowledge; indeed, perhaps it exceeds the knowledge of the *mujtahids* because, with regard to the meanings of the traditions, the

[35] The identify of this individual is unclear. Placement of his name after al-Qummī and before al-Ḥurr al-'Āmilī suggests, however, that al-Yazdī died between 1098/1687 and 1104/1693, the death dates of al-Qummī and al-Ḥurr al-'Āmilī respectively, making it unlikely this is a reference to 'Abdallāh b. al-Ḥusayn al-Yazdī (d. 983/1575) or a misreference to 'Abdallāh al-Tūnī (d. 1071/1660–61).

mujtahids overstep all bounds with regard to the meanings of the traditions [to reach a point] not intended. He [i.e. such an individual] is an Akhbārī not a *mujtahid*. This shows there is a difference between the two.

32. [17, 24] The Akhbārīs do not permit action on the basis of presumed exoneration in denying the prohibition of a positive action—for example, denying the prohibition for an individual to touch the text of the Qur'ān when he has annulled his state of ritual purity with a minor infraction—nor in denying a conventional norm—such as, for example, denying that an excretion from [a path] other than the two paths [i.e. urinating or excretion, e.g. vomiting] destroys [the state of ritual purity]. They permit action on the basis of this [principle] in denying the necessity of a positive action—such as denying the obligatory nature of the *witr* prayer—not with respect to the principle of exoneration, but rather based on what is widely reported from Them, on Them be peace, that " The people are free [from an obligation] as long as they do not know " and " Something about which God has shielded knowledge from His servants is [a burden] lifted from them."

33. [24] In the event of contradictory *akhbār* the Akhbārīs do not permit determining preference on the basis of presumed exoneration.

The *mujtahids* permit this.

34. [29] A group of Akhbārīs—including the scholar al-Amīn al-Astarābādī, may God sanctify his secret, in *al-Fawā'id al-Madaniyya*—permit delay of the explanation beyond the time of need.

The *mujtahids* agree on its being forbidden. The disagreement among them, however, concerns [the issue of] the delay of explanation beyond the time of the making of the statement.

35. [25] The Akhbārīs do not permit action on the basis of the consensus claimed in the statements of our recent *fuqahā* if there is no path to sure knowledge based on the inclusion of the statement of the Infallible, on Him be peace, without a transmission from Him.

Some *mujtahids* agree with them on this. [This is] because [they maintain] consensus may not be a proof without the ascertainment of the [inclusion] of the statement of the Infallible, since, by common agreement among us, it [i.e. consensus] is not evidence in itself. Rather it sheds light on the statement of the Proof, that is the Infallible. If not a single transmission on the issue on which consensus is claimed is traced back to Him, not to mention general circulation or widespread successive transmission, how is the statement of the Infallible ascertained? If the latter is not ascertained, it is certainly not evidence or a proof. You know that in the *mujtahids'* discourse it [i.e. consensus] is one of the proofs, such that a group of them claim consensus related on the basis of an isolated tradition is a proof, after the model of action on the [basis of] the isolated transmitted tradition. This [claim] is invalid because acting on the basis of an isolated tradition is authorized based on numerous, indeed widespread successive, traditions. [This is] unlike the statement based on one isolated tradition containing a claim of consensus.

36. [26] The *mujtahids*—or the majority of them—do not take notice of disagreement [in consensus] where the name of the individual disagreeing is known. This does not detract from consensus.

As for the Akhbārīs, they do not take notice of this basis [i.e. of consensus]. They do not distinguish between [an opponent whose] name is known or one [whose name is] unknown. Rather action is based on evidence and consensus is absolutely not evidence of His view, as you know. Rather evidence is the statement of the Infallible. If that is ascertained, whether it is with someone

known or unknown or not, that [statement] is evidence. If [it can]not [be ascertained to be the Imām's statement] it is not [evidence].

37. [17, 24] The *mujtahids* maintain the basic state in [legal] questions is permissibility. [This is] based on the statement of the Imām, on Him be peace, " Everything is unrestricted until prohibition comes down concerning it ", and on the basis of the universality of the Almighty's statement "He made for you all that is on the earth " (Qur'ān, 2:29).

The Akhbārīs hesitate on this. Rather, according to them where something does not have a text permitting it there is no means to permitting or forbidding it. Rather it is in the category of uncertainty. [Legal] issues are of three [sorts]: [that] wherein lawfulness is clear, [that] wherein prohibition is clear, and between that [categorization there are] uncertainties.

I hesitate on this question. Indeed, what seems clear to me is preference for the statement of the *mujtahids* based on [Qur'ānic] verses and transmissions. God knows best.

38. [27] The Akhbārīs believe in the soundness of all that is in the four books [36] except what they determine to be weak. [This is] because these [traditions] are either successively transmitted or detailed or are those whose link to the People of Infallibility, on Them be peace, is known, as more than one of them [i.e. Akhbārī scholars] has explicitly stated.

The *mujtahids* do not maintain this.

39. [28] The Akhbārīs do not permit action on the basis of continuance except where the text indicates it, such as " Everything is pure until you know it is impure ", and " If you have performed ablutions then do not perform them again until you know you have become defiled ", and other similar statements.

Some *mujtahids*, such as [al-Sayyid] al-Murtaḍā, agree. Our Shaykh [Sulaymān al-Baḥrānī al-Māḥūzī], the most erudite man of the Age, said " and this is the stronger one [of the two opinions] for me ". For the majority of the *mujtahids* it is a proof. Indeed al-Muḥaqqiq [Ja'far b. al-Ḥasan al-Ḥillī (d. 676/1277)] in *al-Mu'tabar* counted it an equal portion to the four proofs, making it a fifth [proof]. Subsequent scholars included it within the proof of reason.

40. The *mujtahids* require the *mujtahid* to refer to the principles of legal methodology and its rules derived by the Sunnī *'ulamā*, such as [Abū 'Abdallāh Muḥammad b. Idrīs] al-Shāfi'ī (d. 204/820) and [al-Nu'man b. Thābit] Abū Ḥanīfa (d. 150/767). All agree that the first to devise the principles of jurisprudence were the Sunnīs. The first of these was al-Shāfi'ī, as a group of the *'ulamā'* have explicitly stated.

The Akhbārīs do not make this obligatory. Indeed they do not permit this except where the statements of the People of Infallibility point to it. According to them it is obligatory only to refer only to the rules of the People of Infallibility.

[36] These are the four books of Twelver *akhbār* compiled in the two centuries after the occultation of the twelfth Imām. They are *al-Kāfī* of al-Kulaynī, *Man lā Yaḥḍuruh al-Faqīh* of al-Shaykh al-Ṣadūq, and *Tahdhīb al Aḥkām* and *al-Istibṣār* of al-Shaykh Muḥammad b. al-Ḥasan al-Ṭūsī.